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IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re
WADE HANSON and GAIL HANSON,
Debtors.

Case No. 09-13200-B-7

Chapter 7

Docket Control # RH-7

Date: November 10, 2015

Time: 10:00 a.m.

Dept: B, Courtroom 13

Judge: Honorable René Lastreto II

**TRUSTEE'S MOTION FOR AUTHORIZATION TO SELL
PERSONAL PROPERTY OTHER THAN IN THE ORDINARY COURSE
OF BUSINESS; POINTS AND AUTHORITIES IN SUPPORT OF MOTION**

James Salven, Trustee of the above-captioned case hereby moves the Court for an order authorizing the sale of personal property other than in the ordinary course of business and alleges as follows.

1. James Salven is the duly appointed, qualified and acting trustee in the above-captioned case filed under Chapter 7 on or about April 13, 2009. The Court has jurisdiction over this proceeding by virtue of 28 U.S.C. §1334. The matter is a core proceeding as defined by 28 U.S.C. §157(b). The relief requested is pursuant to 11 U.S.C. §363. Procedure is controlled by B.R. 9014. Service is provided pursuant to L.B.R. 9014-1.

2. Among the assets in this estate are real and personal property acquired by the Debtor, Wade Hanson ("Wade"), in a series of transactions with three individuals, Helen Gardner, Steve Espinosa and Charles Claborn (hereinafter "Creditors"). The series of transactions form the

1 3. The estate holds a 50% interest in H & C Land Company, Inc. ("H & C"), a
2 California corporation. The other 50% is owned by Charles Claborn ("Charles"). Wade and the
3 Creditors began acquiring property as far back as 2003. They acquired four parcels of real property
4 now owned one-half by H & C in their individual capacities as tenants-in-common in either 2006 or
5 early 2007. The undivided 25% interest of Wade and Charles in the four parcels was transferred to H
6 & C in exchange for stock. Although Wade and Charles each held an undivided 25% interest in the
7 real property, the value of the contribution was not equal because of different contributions for
8 expense on the parcels by the various co-owners. H & C held an undivided one-half interest in the
9 following four parcels of property at the time the Chapter 7 case of Wade was filed.

- 10 a. 5452 East Pitt, Fresno, California ("Pitt") was an incomplete house.
11 b. 2355 Willow Street, Fresno, California ("Willow") – open land.
12 c. 1824 Dudley, Fresno, California ("Dudley") – five acres of open land.
13 d. Amador Lot.

14 4. Charles and Wade made unequal contributions to the four parcels such that
15 Charles' contributions exceeded Wade's at the time the case was filed by \$139,273.00. This
16 difference has been carried on the corporate books as a difference in capital accounts. At the time of
17 filing, the corporation was responsible for one-half the outstanding real property taxes on the four
18 parcels of approximately \$21,000.00. Following the filing of the case, the three individual creditors
19 have paid real property taxes, insurance and have maintained the properties.

20 5. There is one lot contiguous to the Amador Lot that is the property of the estate.
21 The two lots are of equal value. The Trustee has filed a motion to sell both lots, Docket Control #54,
22 for the sum of \$11,500.00. The lots are identified as Fresno County APNs 465-125-11 and 465-125-
23 12. Prior to the filing of the case, the Creditors obtained a judgment against Wade and recorded an
24 abstract of judgment, in the amount of the claims filed in this case, of several hundred thousand
25 dollars. The abstract has attached to the lot listed in the bankruptcy and cannot be avoided. The
26 Creditors, as part of the transaction that is the subject of this motion, have agreed to allow the sale of
27 both the Amador Lot and the contiguous lot with all proceeds to be paid to the bankruptcy estate
28 subject only to the outstanding real property taxes.

6. Wade held a 28% interest in Riverpark Associates, LLC. The other three members are the three individual creditors. The LLC was formed to acquire real property at 7502 N. Colonial, Fresno, California. This property was foreclosed on June 9, 2009. The LLC has no assets except its judgment against Wade.

7. The sale, that the Trustee requests this Court to approve by this motion, is for the 50% interest in H & C and the 28% interest in Riverpark Associates, LLC. The consideration for the sale is the release of the abstract of judgment on the lot owned by the estate, Fresno County APN 465-125-12 and a conveyance of the Amador Lot, Fresno County APN 465-125-11 from H & C and the Creditors plus the sum of \$5,000.00 that has been paid to the Trustee. The Trustee previously filed a motion to compromise a controversy with the three individual creditors, Docket Control #64, seeking the same relief that is requested under the motion. The motion to compromise was denied without prejudice by minute order dated September 24, 2015, Docket Control #71.

8. The Trustee has analyzed the current values of the properties purchased by the four individuals, the relative contribution of each of the investors and has made a determination that the sale described in this motion represents the fair market value of the 50% in H & C and the 28% in Riverpark Associates, LLC and that the sale is in the best interest of the creditors in this estate. Because of the complexity in releasing liens, the conveyance of the stock in H & C and the transfer of the membership interest in Riverpark Associates, LLC it is inappropriate to offer the sale of the personal property for higher and better bid.

WHEREFORE, the Trustee prays that the sale of the 50% interest of H & C Land Company, Inc. and the 28% interest of Riverpark Associates, LLC be authorized to Helen Gardner, Steve Espinosa and Charles Claborn upon the terms and conditions set forth above and for such further and other relief as the Court deems proper.

Dated: OCT 08 2015


 ROBERT HAWKINS
 Attorney for Chapter 7 Trustee

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